IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1611 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHAILALBHAI M MALI

Versus

BANK OF BARODA

Appearance:

1. Special Civil Application No. 1611 of 1990

MR HARESH J TRIVEDI for Petitioner No. 1

MR BHARAT J SHELAT for Respondent No. 1

MR DARSHAN M PARIKH for Respondent No. 2

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 16/01/2002

ORAL JUDGEMENT

1. Learned counsel Mr.Haresh Trivedi fairly restricted his arguments to the proportion of punishment

and requested the Court to take a lenient view of the serious acts of misconduct admitted by the petitioner in the course of departmental enquiry.

2. The simple essential facts of the case are that the petitioner was dismissed by the respondent bank after holding departmental enquiry in which charges of serious acts amounting to breach of trust, subversion of discipline, causing wrongful loss and lack of integrity and honesty by an act of misappropriation were proved and accepted. After the detailed order dated 3.5.1989 inflicting punishment of dismissal, the petitioner had also availed of the remedy of departmental appeal in which he was again given full opportunity of being heard. After considering his grounds of appeal, and by an elaborate order, the appeal was dismissed. Therefore, in short, there was no gainsaying that the petitioner was dismissed after the proof of misconduct and after undergoing the due process of law.

3. As for interference with the order of punishment, it is found to be neither too harsh nor shockingly disproportionate to the misconduct of misappropriation in the establishment of a bank. Therefore, there is no reason to interfere with the order of punishment in exercise of the extraordinary powers of this Court under Article 226 of the Constitution. Accordingly, the petition is dismissed. Rule is discharged with no order as to costs.

(D.H. Waghela, J.)
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